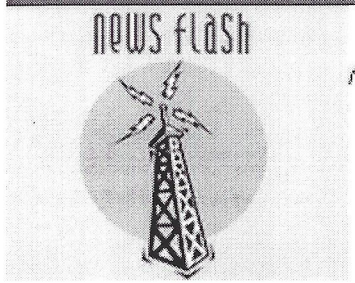

NEWS FLASH ARCHIVES
Current News Flashes
2003 News Flashes
2002 News Flashes
2001 News Flashes
2000 News Flashes
1999 News Flashes
1998 News Flashes

SEARCH ARTICLES

Advanced Search

DONATE NOW THROUGH Network for Good
Support the work of the SPLC

11th-hour deal provides fewer fees for college webcasters

Noncommmercial radio stations will pay a $250 or $500 flat fee to webcast under settlement

© 2003 Student Press Law Center

June 6, 2003

WASHINGTON, D.C. -- Internet-savvy college radio stations that halted streaming music online out of fear of running up excessive charges may now be able to resume webcasting with a peace of mind.

A royalty agreement was reached between a symposium of noncommercial webcasters and the Recording Industry of Association of American on the brink of its May 31 deadline set by Congress under the Small Webcaster Settlement Act. The settlement reduces the fees meant to compensate record labels and artists for music broadcasted online and eliminates burdensome record-keeping requirements through 2004. The requirements were imposed by the Librarian of Congress under the 1998 Digital Millennium Copyright Act.

Under the new terms, college and K-12 webcasters at schools with an enrollment of less than 10,000 students will pay a fixed rate of $250 per year. Schools with enrollment of more than 10,000 will pay $500 per year. In both cases, the stations may also be responsible for paying up to .02 cents per listener per song played, but only if Web users listen to more than a total of 146,000 hours worth of music per month. This is equivalent of 200 people listening 24 hours a day. For stations that go above the limit, they must monitor the number of listeners and the duration each listener visits the site with computer software.

However, this monthly limit is one few campus stations will reach, considering most college radio stations average about five to 10 listeners an hour, according to Michael Papish. Papish is the technology and policy adviser for Harvard University's WHRB and the Intercollegiate

Broadcasting System, a nonprofit organization representing more than 800 educationally affiliated stations. For most stations, he said the likelihood of going above the 146,000 threshold is slim, and the flat fee gives webcasters room to grow.

"Right now, these numbers make a lot of sense," he said. "Certainly five or 10 years from now when Internet radio is a lot bigger, 200 simultaneous listeners will not be enough, but these rates will be renegotiated again at the end of 2004, and other factors such as increased listeners will be considered."

If a station has webcast in the past, it is responsible for paying the required fees but at a lower rate than the one set by James H. Billington, the Librarian of Congress in June 2002. Under the previous requirements, all noncommercial stations were to pay .02 cents per listener per song, and a minimum annual fee of $500 was required. Commercial radio stations currently pay .07 cents per listener per song and the same annual fee. College radio stations were looking at payments as high as $5,256 per year, and payment would have been retroactive to October 1998.

Will Robedee, general manager for Rice University's KTRU and founder of the **Save Our Streams Web site** that tracks Digital Millennium Copyright Act issues, said that the result of the negotiation ensures that stations interested in pursuing or continuing webcasting can do so without trepidation.

"For stations that have been streaming, [the new agreement] means a lot less money that must be paid out for streaming that they have done in the past and will do in the future," said Robedee. "Most fundamentally, it removes the question of 'how much are we going to be charged' and 'what kind of record-keeping do we have to do.' That vagueness has kept a lot of stations from webcasting because they didn't feel they could webcast not knowing what their liability would be."

The agreement states that any noncommercial station that currently or previously played music online will pay a fixed rate regardless of enrollment or listeners. From 2000 to 2003, stations will pay $250 for each year of webcasting; a fee of $200 was set for 1998 and 1999, which counts as one year.

Station mangers, apprehensive about keeping up with the intricate cataloging system that was initially required with their small staffs, can breathe a collective sigh of relief. The settlement eliminates the record-keeping requirements through 2004. Papish suggested that record-keeping requirements could have required disc jockeys to list the artist, song played, the number of times played and the number of Web listeners while the song aired. Instead, noncommercial webcasters will pay $50 for 2003 and $25 in 2004 in lieu of record-keeping

responsibilities.

All noncommercial webcasters have until October 15, 2003, to make all payments for streaming between 1998 through 2003. New stations must pay the applicable fees within 45 days of its first webcast.

The agreement also allows stations that paid royalties under the old rate plan to have their accounts with SoundExchange, an organization of recording companies and artist representatives, credited toward the newly implemented fees.

Papish said that in the past neither side really stepped forward to acknowledge that a compromise must be made. During negotiations Papish said both SoundExchange and the noncommercial entities realized, however, that in order to coexist a balance must be achieved.

"The partnership we created in this agreement, to facilitate the accurate reporting of performances on these services at an affordable cost, illustrates our commitment to compensating artist and copyright owners for their hard work," said John Simson, executive director of SoundExchange, in a recent statement.

Papish remains optimistic about the future of noncommercial webcasting and believes that the agreement is a step in the right direction. He said the motivation behind college webcasting is much different than the stations' commercial, big radio counterparts, and, in the age of the Internet, the benefits of streaming are in their favor -- allowing webcasting to flourish.

"Noncommercial webcasters have a different goal in mind, they want to bring different kinds of music and programming to an audience and educate people to bring them something they can't get anywhere else. The Internet and Internet radio is much better suited for that goal than making large profits," said Papish.

But the benefits of webcasting go far beyond diversifying music programming, according to Robedee. College stations are nonprofit, educational entities, and webcasting should be used as a tool for furthering students' development.

"[Webcasting] allows students to use the Internet in a way that will allow them to have their audio potentially broadcasted all over the world. It offers educational opportunities to students if there are colleges and universities [that] for whatever reason can't have a broadcasting station, this allows them to start new programs relatively inexpensively," said Robedee.

Ohio Northern University's WONB began webcasting back in 1999 and was forced to stop streaming, along with many other college stations, in February 2002 due to heightened

uncertainty about cost factors and documentation expectations. Richard Gainey, the general manager and adviser for WONB, is satisfied with the agreement and said that they plan on going back online as soon as possible with their efforts supported by the university.

"We are looking forward to streaming audio again because we have a diverse student body, and, for many of the parents of our students, webcasting is a way for them to hear and feel closer to their children all over the country."

For schools that did not stop webcasting, the response to the agreement is more subdued. University of Louisiana at Monroe's KXUL, with a worldwide audience that reached Switzerland, Chile, Japan and Belgium just last month, continued webcasting despite the fees. For KXUL, the agreement simply means that they will be able to keep operating, said Joel Willer, general station manager and assistant professor of mass communications.

"The agreement is something that we've worked hard over the last two years for, and it's some relief to have certainty through 2004. Other campuses feel a relief that they will be able to continue or the excitement that they will be able to begin or return to streams that had been previously removed from the Web," he said.

Despite the fee resolution, problems continue to persist for college webcasters. They are still limited in the number of songs from a CD or boxed set that they can play consecutively or in a three-hour time period. Willer said he fears that the restrictions on the number of listeners and the content of the webcasting will severely handicap college stations' potential growth in the future.

"During negotiations there was an indication from RIAA that they understood the numbers [in the new agreement] would need to be adjusted," he said. "But for now, only time will tell whether they stand by that."

For More Information: Read agreement **here**

Read previous coverage:

- **College radio stations play waiting game after new law delays fees for webcasting** *The Report*, Winter 2002-03
- **The end of Webcasting as we know it?** *The Report*, Fall 2002
- **College webcasters say new royalty fees will end many Internet broadcasts** News Flash, 6/24/2002
- **Copyright act threatens Web radio** *The Report*, Spring 2002
- **College radio stations fear proposed royalty fees for webcasting songs** News Flash,

3/5/2002

< Return to Previous Page

Search | Contact the SPLC | Resource Center | News Flashes | About SPLC | SPLC Report | Members | SPLC Store | Site Map | Home